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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROLAND M. HOCHMUTH, JOHN MARKS and
ROBERT P. MARTIN

Appeal 2009-002396
Application 09/941,254[1]
Technology Center 2400

Before HUBERT C. LORIN, BIBHU R. MOHANTY, and
CAROLYN D. THOMAS, *Administrative Patent Judges*.

THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL[2]

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[1] Application filed August 27, 2001. The real party in interest is Hewlett-Packard Development Company.

[2] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's final decision rejecting claims 1-14, 19 and 20, which are all the claims remaining in the application, as claims 15-18 are cancelled. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We AFFIRM.

The present invention relates to communicating graphics images over a computer network.

Claim 1 is illustrative:

> 1. An apparatus for communicating graphics between at least two remotely-located computers across a computer network comprising:
>
> an input for receiving a video signal output from a graphics card of a source computer;
>
> a memory for storing discrete units of the video signal;
>
> a compression circuit for compressing a plurality of the discrete units into a compressed video signal;
>
> a network interface circuit coupled to both the compression circuit and the computer network, the network interface circuit configured to format and communicate the compressed video signal over the computer network to a remote computer; and
>
> an output coupled to the computer network.

Appellants appeal the following rejections[3]:

1. Claims 1-5, 7-12, 19, and 20 under 35 U.S.C. § 102(e) as anticipated by Hendricks (US 6,675,386 B1, Jan. 6, 2004);

[3] Appellants do *not* present any arguments in the Appeal Brief regarding the § 103(a) rejections of claims 6, 13, and 14.

2. Claim 6 under 35 U.S.C. § 103(a) as unpatentable over Hendricks and Mou (US 7,068,596 B1, Jun. 27, 2006); and

3. Claims 13 and 14 under 35 U.S.C. § 103(a) as unpatentable over Hendricks and Boe (US Patent Pub. 2002/0109975 A1, Aug. 15, 2002).

ANALYSIS

Appellants argue claims 1-14, 19, and 20 as a group (App. Br. 4-11). For claims 2-14, 19 and 20, Appellants repeat the same argument made for claim 1. Appellants have not provided separate arguments for the patentability of claims 6, 13, and 14 under the § 103(a) rejection. We will, therefore, treat claims 2-14, 19, and 20 as standing or falling with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii). *See also In re Young,* 927 F.2d 588, 590 (Fed. Cir. 1991).

Issue 1: Did the Examiner err in finding that Hendricks discloses the features as set forth in claim 1?

Appellants have set forth numerous arguments which include the Examiner has not found all the features recited in claim 1. Specifically, Appellants contend that:

(1) Hendricks "do not disclose one of the two remotely-located computer of claim 1" (App. Br. 6);

(2) "none of these elements can properly disclose the claimed video signal from the graphics card of a source computer" (App. Br. 6);

(3) Hendricks fails to disclose the claimed "*memory for storing discrete units of the video signal.*" (App. Br. 7);

(4) "[i]t is [a] single device that comprises the various elements defined in claim 1" (App. Br. 8); and

(5) "the compression element 108 cannot properly apply to the claimed 'compression circuit' because it does not operate on the contents of the digital storage, but rather the output of the video tape" (App. Br. 9-10);

We refer to, rely on, and adopt the Examiner's extensive findings and conclusions set forth in the Answer. (Ans. 4-32.) We agree with the Examiner's responsive arguments and adopt them here as well. (Ans. 33-66.) Our discussions here will be limited to the following points of emphasis.

We start by noting that the Examiner's correlation of the claimed features with Hendricks system is quite reasonable. For example, the Examiner found that "Fig. 3B, element 134, 'Computer' is a source of 'a video signal' since 'Computer 134 is acquiring, processing, storing, compressing and transmitting[] over the network 120' to the [] apparatus 'Web Site,' element 140 of Fig. 3B incorporated by the 'web server 200' of Fig. 9B" (i.e., remote computer) (Ans. 39.) In other words, the Examiner has shown that Hendricks depicts in at least Figs. 3B and 9B an apparatus for transmitting compressed video signals across a network to a remote computer.

Secondly, we point out that Appellants have chosen to draft the claims, claim 1 in particular, far more broadly than argued. However, the *claims* measure the invention. *See SRI Int'l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc). During prosecution before the

USPTO, claims are to be given their broadest reasonable interpretation, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997); *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989); *In re Prater*, 415 F.2d 1393, 1404-05 (CCPA 1969).

"Giving claims their broadest reasonable construction 'serves the public interest by reducing the possibility that claims, finally allowed, will be given broader scope than is justified.'" *In re Amer. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (citations omitted). "An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process." *Zletz*, 893 F.2d at 322. "Construing claims broadly during prosecution is not unfair to the applicant . . . because the applicant has the opportunity to amend the claims to obtain more precise claim coverage." *Amer. Acad.,* 367 F.3d at 1364.

Here, we find that although Appellants argue that "[i]t is [a] single device that comprises the various elements defined in claim 1" (App. Br. 8), we find that claim 1 does not limit the "apparatus" to a "single distinct device." An apparatus can be made up of various components. The ordinary and usual meaning of an "apparatus" is *a set of equipment designed for a particular use*. *Merriam-Webster's Collegiate Dictionary,* p.55-56 (10th Edition 1997). Here, the Examiner found that Hendricks' set of equipment (e.g., elements found in Figs. 3B and 9B) are designed to perform the particular function described in claim 1, and is therefore an apparatus as claimed. We agree.

In addition, Appellants contend that that claimed "video signal is not simply any signal that may carry or include video content, but instead is a signal that is dedicated to carrying video content." (App. Br. 7.) We disagree. Here, claim 1 merely calls for a "video signal," and Appellants have not identified any special definition or meaning in the specification that should be given to the "video signal" in claim 1 that would limit it to only video content. Any special meaning assigned to a term "must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention." *Multiform Desiccants Inc. v. Medzam Ltd.*, 133 F.3d 1473, 1477 (Fed. Cir. 1998). Here, we find no such special meaning. Therefore, we find that the claimed "video signal" reads on any signal relating to or involving images. Hendricks' Fig. 3B clearly shows using a camera 104 to send video signals to source computer 134, which must necessarily include a video/graphics card in order to receive such images.

Furthermore, we find that some of Appellants' arguments are not commensurate with the actual scope of instant claim 1. For example, claim 1 does not require that the compression circuit *operate on the contents of the digital storage*. Instead, claim 1 merely requires "compressing a plurality of the discrete units into a compressed video signal." This compression can be done before the content reaches the digital storage, while in the digital storage, or when outputted from the digital storage. The claimed limitation would read on any one of these time-frames. Here, the Examiner found that Hendricks discloses in Fig. 3B that "video from cameras 104' and 104" is compressed and provided to data communications network 120," (i.e., before reaching the digital storage (e.g., memory)). (Ans. 39.) Thus, the claimed "a

compression circuit for compressing a plurality of the discrete units into a compressed video signal" reads on at least Hendricks' Fig. 3B.

For the reasons set forth here and by the Examiner in the Answer, we affirm the rejection of the claims on appeal. Even though the Brief argues each claim limitation in claim 1, such claim limitations have been directly rebutted by the Examiner in the statements of the rejections and in the Examiner's extensive responsive arguments. We endorse and adopt the Examiner's findings.

Based on the record before us, we find that the Examiner did not err in rejecting claim 1. Accordingly, we affirm the rejection of claim 1, as well as claims 2-14, 19, and 20, which fall therewith.

DECISION

We affirm the Examiner's § 102 and § 103 rejections.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2010).

AFFIRMED

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